



Department of the Treasury
Internal Revenue Service

Date: April 10, 2000

Employer I.D.#:

Person to Contact:

Telephone Number:

In Reply Refer To:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The evidence submitted indicates that your organization was formed as a corporation on [REDACTED]. Your current articles of incorporation provide that you are organized "to train youth of every ability to reach their highest academic potential... to teach necessary academic skills to equip each person for higher degrees of learning... [and] to enhance basic manners and personal self-value through the use of mentors sponsoring on the job training to children." Your bylaws contain the ordinary and acceptable provisions regarding membership, meetings, directors, and officers.

According to your application, you provide schooling for [REDACTED] full-time students grades K-8, daycare for [REDACTED] children ages ranging from [REDACTED] years and private music lessons for [REDACTED] students. As such, it appears that the providing of music lessons is the organization's primary activity.

[REDACTED], the organization's creator, president and primary instructor, stated that the schooling activities are more specifically home schooling activities.

The organization originally applied for recognition as an organization described in IRC section 509(a)(2) while also indicating on page 7 of the 1023 application, question 15 that it was a part of a school, and child care organization. Based on the above information, the organization inquired about qualifying as a school under IRC 509(a)(1) and 170(b)(1)(A)(ii), but agreed instead to be considered

Your current source of income is solely from fees for the above-mentioned services. Those individuals who are unable to pay offer fee services in exchange for such fees.

Your initial response regarding our inquiry about salaries and compensation was to state that the organization has no employees. As the Service considered this response to be incomplete, we requested the organization to elaborate by providing information on all forms of compensation and, in particular, how [REDACTED] otherwise supports herself given her apparent high degree of involvement with the organization. In response, we received copies of [REDACTED] for [REDACTED] a statement that one of [REDACTED]'s primary sources of support has been, and is currently, through providing music lessons (the organization's primary activity); and a copy of [REDACTED] wherein [REDACTED] were prepared. Both of these [REDACTED] reported all income and expenses for the schooling, daycare and music lessons under the business name of this organization. [REDACTED] was not issued a [REDACTED] for either [REDACTED], however, we were advised to see the above-mentioned [REDACTED] regarding her [REDACTED].

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations defines a private shareholder or individual as persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve private interests.

Section 1.501(c)(3)-1(c)(2) of the Regulations states that "an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."

There is a lack of published precedence regarding home schooling activities, however, it is currently the general position of the IRS that such activity, while providing education, primarily serves the private interests of the students and their families rather than that

of the general public. Such activity, therefore, does not qualify as an activity described in IRC section 501(c)(3).

Although the organization's other activities, daycare and music lessons, are ordinarily considered to fall within the scope of IRC section 501(c)(3), all income and corresponding expenses from such activity appear [REDACTED] as they have been reported on [REDACTED] as a [REDACTED]. In accordance with [REDACTED], [REDACTED]. The organization has indicated in its latest response that all such reporting continues to be the case. As such, the net earnings of the organization are considered to be inuring to the support and private benefit of, [REDACTED], the organization's [REDACTED].

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. In accordance with this determination, you will continue to be recognized as an organization which is subject to Federal income tax.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Internal Revenue Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position.

If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Steven T. Miller
Steven T. Miller
Director, Exempt Organizations

Enclosure: Publication 892
cc: [REDACTED]